

Notice of Allowability

Application No.

09/509,591

Examiner

Michael D. Burkhart

Applicant(s)

LITTLE ET AL.

Art Unit

1633

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment of 8/16/2005.
2. ☒ The allowed claim(s) is/are 76-78, 80, 81, 88-90, 92, 93.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 9-1-05
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

520

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Linda Judge on 9/1/05.

The application has been amended as follows:

In the claims:

76. (Currently Amended) A method for conferring selective cytotoxicity on a target cell, said method comprising contacting a cell which allows an α fetoprotein transcription regulatory element (AFP-TRE) to function with an adenovirus vector comprising more than one adenovirus gene essential for viral replication under transcriptional control of ~~an~~ the same AFP-TRE wherein the AFP-TRE comprises a sequence selected from the group consisting of SEQ ID NO:1, SEQ ID NO:2, nucleotides from about 1 to about 600 of SEQ ID NO: 1, nucleotides from about 300 to about 600 of SEQ ID NO:1 and nucleotides from about 600 to about 822 of SEQ ID NO:1, whereby the vector enters the cell and replicates.

88. (Currently Amended) A method of suppressing tumor growth in an individual having an AFP-expressing tumor, comprising contacting the tumor cells with an adenovirus vector comprising more than one adenovirus gene essential for replication under transcriptional control of ~~an~~ the same AFP-TRE, wherein the AFP-TRE comprises a sequence selected from the group

Art Unit: 1633


consisting of SEQ ID NO:1, SEQ ID NO:2, nucleotides from about 1 to about 600 of SEQ ID NO:1, nucleotides from about 300 to about 600 of SEQ ID NO:1 and nucleotides from about 600 to about 822 of SEQ ID NO:1, whereby the adenoviral vector transfects the tumor cells and replicates.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael D. Burkhart whose telephone number is (571) 272-2915. The examiner can normally be reached on M-F 8AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Nguyen can be reached on (571) 272-0731. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Michael D. Burkhart
Examiner
Art Unit 1633


DAVID GUZO
PRIMARY EXAMINER